

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 15821 of 1997

Between:

- 1 Gulam Mohiuddin, S/o.Sharuddin(Died)
Revenue Department, Secretariat,
H.No.B6/F2, Kaladera Colony, Hyderabad.
- 2 Shamsunnisa , W/o.Gulam Mohiuddin,
R/o. H.No.B6/F2,Malakpet,Kaladera Colony,Hyd. The Petitioners 2 to

5 are brought on record as LRs of deceased petitioner as per court

order dt.8.10.1998 in W.P.M.P.31556/98.

- 3 Abdul Muqued Mohammad, S/o.Gulam Mohiuddin,
R/o. H.No.B6/F2,Malakpet,Kaladera Colony,Hyd. The Petitioners 2 to

5 are brought on record as LRs of deceased petitioner as per court

order dt.8.10.1998 in W.P.M.P.31556/98.

- 4 Asfra Tasneem, D/o.Gulam Mohiuddin,
R/o. H.No.B6/F2,Malakpet,Kaladera Colony,Hyd. The Petitioners 2 to

5 are brought on record as LRs of deceased petitioner as per court

order dt.8.10.1998 in W.P.M.P.31556/98.

- 5 Atqia Tasneem, D/o.Gulam Mohiuddin,
R/o. H.No.B6/F2,Malakpet,Kaladera Colony,Hyd. The Petitioners 2 to

5 are brought on record as LRs of deceased petitioner as per court

order dt.8.10.1998 in W.P.M.P.31556/98.

..... PETITIONERS

AND

- 1 The Union of India, represented by it's Cabinet Secretary,
New Delhi.
- 2 The Govt., of A.P., Represented by it's secretary, Housing (HB)

Department,
Secretariat Buildings, Hyderabad.
3 The Govt., of A.P., Represent by it's secretary,

GAD.(Accommodation)Department
Secretariat Buildings, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction preferably in the nature of writ of Mandamus after declaring the proposed eviction directing me, not to continue in possession of the quarters B-6/F2, Kaladera Colony, New Malakpet, Hyderabad, and declare the action of the Government, in not selling the house at Kaladera Colony , to me on hire-purchase system or total sale as illegal arbitrary and unconstitutional and consequently be pleased to direct the respondent to sell the H.No.B-6/F2, Kaladera Colony, New Malakpet, Hyderabad, to me on Hire-purchase system in terms of G.O.Ms.No.130,Housing dt.23.12.1974,and pass

Counsel for the Petitioner:MR.MOHD. AZIZULLAH KHAN

Counsel for the Respondent No.1: Mr.S.Ramakrishna Rao (Addl.S.C. for Central Govt)

Counsel for Respondent Nos.2 & 3: GP FOR GENERAL ADMINISTRATION

The Court made the following :

ORDER:-

This writ petition is filed questioning the action of the respondents in seeking to evict the petitioner from quarter No.B-6/F2, Kaladera Colony, New Malakpet, Hyderabad and in not selling the said quarter to the petitioner on hire purchase basis, as illegal and arbitrary.

The facts in brief, which led to filing of the writ petition are - The petitioner, a Section Officer in the Revenue Department, was allotted the subject quarter by the Government vide memorandum dated 31-3-1965, and since then, he is in occupation thereof. It is his case that as per G.O. Ms. No.130 of 1974 dated 23-12-

1974, the allottees are entitled to purchase the said quarters on hire purchase basis. The petitioner states that earlier, he along with others, filed W.P. No. 17199 of 1993 before this Court, and obtained interim stay of eviction by order dated 1-7-1994 in W.P.M.P. No. 21721 of 1993.

This Court while admitting the writ petition granted interim order on 21-7-1997 in W.P.M.P.No.19155 of 1997, which reads as under;

“The learned Government Pleader for General Administration took notice for the respondent. He had to file counter, if any within three weeks. Call W.P.M.P. on 18-8-1997. In the meanwhile, status quo obtaining as on today shall be maintained. Notice.”

During the pendency of the writ petition, the petitioner died and his legal heirs were brought on record vide order passed in W.P.M.P. No. 31556 of 1998 dated 8-10-1998.

It is quite unfortunate to note that though the writ petition was admitted in the year 1997, and even though the petitioner, who is the allottee of the quarter, retired and died subsequently during the pendency of the writ petition, and his legal heirs were brought on record as far back as on 8-10-1998, the respondents 2 and 3 who have a duty and are under an obligation to file counter affidavit in the matter, did not file counter, and kept quite all these days, and filed counter only on 28-3-2005, and that too when the Court threatened of directing personal appearance of the respondents and the Head of the Department concerned.

In the counter affidavit it is stated that the petitioner retired from Government service on 31-10-1996, and expired on 2-6-1998 i.e., during the pendency of the writ petition, and that presently the niece of the petitioner is residing in the subject quarter unauthorisedly. It is further stated that after the death of the petitioner, the third respondent issued a memo No.2673/Accm.C1/1993-35 dated 9-10-2001, and thereafter, the Estate Officer, Hyderabad, issued a show cause notice under section 4 (1) of the A.P.P.P. (EOUO) Act, 1968 on 3-11-2001, calling upon the occupant to vacate the quarter. Thereafter, a notice dated 15-11-2001 of hearing the occupants, was issued calling upon the occupants of the subject quarter on 22-11-2001, but the occupants did not vacate, and presently, further action in the matter, is kept in abeyance in view of the interim orders passed by this Court pending disposal of the writ petition. It is further stated in the counter

that as per the Allotment of Government Quarters Rules, 1973, after the retirement or death of a government employee, who is allotted quarter, his family can retain the quarter for a period of four months only.

Though the Allotment of Government Quarters Rules, 1973 provide that after the retirement or death of an employee, who is allotted a government quarter, his family is entitled to retain the quarter for a period of four months, it is quite surprising to note that though the petitioner died during the pendency of the writ petition in the year 1998, and thereafter, his legal heirs, who are not in occupation of the quarter, were also brought on record, yet the respondents did not file counter, and on the threat of directing the personal appearance of the respondents and the Head of the Department concerned by this Court, they filed the counter only on 28-3-2005, and in the counter, it is stated that the niece of the deceased employee is presently residing in the subject quarter unauthorizedly. When the petitioner was no more, having died during the pendency of the writ petition, and his family being entitled to retain the quarter only for a period of four months, I fail to understand as to how the respondents could have remained silent for more than seven years without taking any action for the eviction of the occupants of the quarter, whose occupation admittedly is unauthorized. The respondents in the counter, except stating that further action in the matter has been kept in abeyance in view of the orders of this Court in W.P. No. 15821 of 1997 dated 21-7-1997, no plausible explanation has been given, for not filing either counter affidavit or taking steps to get the interim stay vacated, and more so when as per the Rules, the family members of the allottee, either after his retirement or death, are entitled to retain the quarter only for a period of four months. The inaction and lapse on the part of the respondent Nos. 2 and 3, has resulted in an ineligible person, occupying the government quarter unauthorizedly, which is otherwise meant for accommodating serving government employees. The callous attitude on the part of the respondents practically deprived the needy government employees, for whose benefit the subject quarters were built. It is high time that the Government take action against the indolent and callous employees, so that others will fall in line.

There is no merit in the writ petition, and the same is accordingly dismissed. The Chief Secretary, Government of Andhra Pradesh, Hyderabad, is directed to conduct an enquiry into the matter and take appropriate action against the officer concerned, who has failed to take timely and necessary steps for eviction of the unauthorized

occupants from the government quarter. No costs.

N.V.RAMANA,J

31-3-2005

TVK

To

- 1 The Union of India, represented by it's Cabinet Secretary,
New Delhi.
- 2 The Secretary, Govt., of A.P., Housing (HB)

Department, Secretariat Buildings, Hyderabad.

- 3 The Secretary, Govt., of A.P.,

GAD.(Accommodation)Department
Secretariat Buildings, Hyderabad.

- 4 One CC to the Chief Secretary Government of A.P., Hyderabad.

- 5 2 CD copies

- 6 Two CCs to G.P. for GAD, High Court of A.P., Hyderabad (OUT)

*Form-NIC-OGS/WP{**BDLNM**}*